



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2020-0726; FRL-8939-02-R4]

Air Plan Approval; North Carolina; Mecklenburg Miscellaneous Rules Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a State Implementation Plan (SIP) revision to the Mecklenburg County portion of the North Carolina SIP, hereinafter referred to as the Mecklenburg Local Implementation Plan (LIP). The revision was submitted by the State of North Carolina, through the North Carolina Division of Air Quality (NCDAQ), on behalf of Mecklenburg County Air Quality (MCAQ) via a letter dated April 24, 2020, and was received by EPA on June 19, 2020. The revision updates several Mecklenburg County Air Pollution Control Ordinance (MCAPCO) rules incorporated into the LIP. EPA is finalizing these changes pursuant to the Clean Air Act (CAA or Act).

DATES: This rule is effective [Insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2020-0726. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia

30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Evan Adams, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S.

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9009. Mr. Adams can also be reached via electronic mail at adams.evan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice of proposed rulemaking (NPRM) published on July 2, 2021 (86 FR 35244), EPA proposed to approve changes to several rules in the Mecklenburg County LIP. The April 24, 2020, submittal includes changes and updates to the following rules to more closely align them with their analog SIP-approved North Carolina regulations.¹ The submission includes changes and updates to MCAPCO Rules 2.0101, *Definitions*; 2.0201, *Classification of Air Pollution Sources*; 2.0202, *Registration of Air Pollution Sources*; 2.0302, *Episode Criteria*; 2.0303, *Emission Reduction Plans*; and 2.0304, *Preplanned Abatement Program*.²

The submittal also asks EPA to reincorporate the following rules into the LIP with a new effective date: MCAPCO Rules 1.5301, *Special Enforcement Procedures*; 1.5302, *Criminal Penalties*; 1.5303, *Civil Injunction*; 1.5304, *Civil Penalties*; 1.5306, *Hearings*; 1.5307, *Judicial Review*; 2.0301, *Purpose*; and 2.0305, *Emission Reduction Plant: Alert Level*. The text of these rules has not changed.

¹ EPA notes that the April 24, 2020, submittal was received by EPA on June 19, 2020.

² The April 24, 2020 submittal contains changes to other Mecklenburg LIP-approved rules that are not addressed in this notice. EPA will be acting on those rules in separate actions.

The July 2, 2021, NPRM provides additional detail regarding the background and rationale for EPA's action. Comments were due on or before August 2, 2021. EPA only received one comment, and it was in favor of this action. This comment will be posted in the docket for this action for public review.

II. Incorporation by Reference

In this document, EPA is finalizing approval of regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is approving MCAPCO Rules 1.5301 - *Special Enforcement Procedures*; 1.5302 - *Criminal Penalties*; 1.5303 - *Civil Injunction*; 1.5304 - *Civil Penalties*; 1.5306 - *Hearings*; 1.5307 - *Judicial Review*; 2.0301 - *Purpose*; and 2.0305 - *Emission Reduction Plan: Alert Level*, all of which have an effective date of December 15, 2015; as well as MCAPCO Rules 2.0101 - *Definitions*; 2.0201 - *Classification of Air Pollution Sources*; 2.0202 - *Registration of Air Pollution Sources*; 2.0302 - *Episode Criteria*; 2.0303 - *Emission Reduction Plans*; and 2.0304 - *Preplanned Abatement Program*, all of which have an effective date of December 18, 2018, into the Mecklenburg County portion of the North Carolina SIP to update the rules to more closely align them with their analog North Carolina rules in the SIP.

EPA has made and will continue to make these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.³

III. Final Action

³ See 62 FR 27968 (May 22, 1997).

EPA is taking final action to approve the aforementioned changes to the Mecklenburg LIP. Specifically, EPA is finalizing approval of revisions to MCAPCO Rules 1.5301 - *Special Enforcement Procedures*; 1.5302 - *Criminal Penalties*; 1.5303 - *Civil Injunction*, 1.5304 - *Civil Penalties*; 1.5306 - *Hearings*; 1.5307 - *Judicial Review*; 2.0101 - *Definitions*; 2.0201 - *Classification of Air Pollution Sources*; 2.0202 - *Registration of Air Pollution Sources*; 2.0301 - *Purpose*; 2.0302 - *Episode Criteria*; 2.0303 - *Emission Reduction Plans*; 2.0304 - *Preplanned Abatement Program*; and 2.0305 - *Emission Reduction Plan: Alert Level*. EPA is taking final action to approve these revisions because they are consistent with the CAA.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days from date of publication of this document in the FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 9, 2021.

John Blevins,
Acting Regional Administrator
Region 4.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart II – North Carolina

2. In §52.1770 amend the table in paragraph (c)(3) by:

- a. Revising the title of “Article 1.000 Permitting Provisions for Air Pollution Sources, Rules and Operating Regulations for Acid Rain Sources, Title V and Toxic Air Pollutants”;
- b. Under Section 1.5300 Enforcement; Variances; Judicial Review by

- revising the entries for “Section 1.5301,” “Section 1.5302,” “Section 1.5303,” “Section 1.5304,” “Section 1.5306,” and “Section 1.5307”;
- c. Under “Section 2.0100 Definitions and References” by revising the entry for “Section 2.0101”;
- d. Under “Section 2.0200 Air Pollution Source” by revising the entries for “Section 2.0201” and “Section 2.0202,”; and
- e. Under “Section 2.0300 Air Pollution Emergencies” by revising the entries for “Section 2.0301,” “Section 2.0302,” “Section 2.0303,” “Section 2.0304,” and “Section 2.0305” .

The revisions read as follows:

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§ 52.1770 Identification of plan.

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(c) * * *

(3) EPA Approved Mecklenburg County Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanation
Article 1.0000 Permitting Provisions for Air Pollution Sources, Rules and Operating Regulations for Acid Rain Sources, Title V and Toxic Air Pollutants				
**	**	*	*	*
Section 1.5300 Enforcement; Variances; Judicial Review				
Rule 1.5301	Special Enforcement Procedures	12/15/2015	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Rule 1.5302	Criminal Penalties	12/15/2015	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	

Rule 1.5303	Civil Injunction	12/15/2015	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Rule 1.5304	Civil Penalties	12/15/2015	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
**	**	*	*	*
Rule 1.5306	Hearings	12/15/2015	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Rule 1.5307	Judicial Review	12/15/2015	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
**	**	*	*	*
Section 2.0100 Definitions and References				
Rule 2.0101	Definitions	12/18/2018	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
**	**	*	*	*
Section 2.0200 Air Pollution Sources				
Rule 2.0201	Classification of Air Pollution Sources	12/18/2018	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Rule 2.0202	Registration of Air Pollution Sources	12/18/2018	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Section 2.0300 Air Pollution Emergencies				

Rule 2.0301	Purpose	12/15/2015	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Rule 2.0302	Episode Criteria	12/18/2018	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Rule 2.0303	Emission Reduction Plans	12/18/2018	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Rule 2.0304	Preplanned Abatement Program	12/18/2018	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Rule 2.0305	Emission Reduction Plan: Alert Level	12/15/2015	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
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[FR Doc. 2021-20008 Filed: 9/27/2021 8:45 am; Publication Date: 9/28/2021]